

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1272-01
Bill No.: HB 557
Subject: Children and Minors; Crimes and Punishment; Social Services Department
Type: Original
Date: March 11, 2013

Bill Summary: This proposal requires all substantiated cases of child abuse and neglect in the central registry to be classified based on risk of future harm to the child.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	(\$542,694)	(\$519,572)	(\$525,749)
Total Estimated Net Effect on General Revenue Fund	(\$542,694)	(\$519,572)	(\$525,749)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Other	(\$32,839)	(\$37,289)	(\$37,727)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$32,839)	(\$37,289)	(\$37,727)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Federal*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

* Income and expenditures exceed \$100,000 annually and net to \$0.

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	8.43	8.43	8.43
Other State	0.6	0.6	0.6
Federal	2.97	2.97	2.97
Total Estimated Net Effect on FTE	12	12	12

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services (DSS) - Division of Legal Services (DLS)** state section 210.152.1 of this proposal adds language that requires the Children's Division (CD) to classify hotline reports into tiers. These categories are based on findings or actions that result at the end of an investigation and not at the point when the initial call is made; therefore, this proposal should result in changes to structured decision-making screening and classification protocol. Child Abuse and Neglect (CA/N) history searches, which are conducted at the time of the call would include dispositional information on prior reports and could include tier classification as well. The creation of this classification system itself will not have any fiscal impact on DLS as its implementation will largely fall to the CD. The proposal does allow for promulgation of rules under this section. This may have a minimal impact on DLS staff, but should be absorbed by current staff.

Section 210.152.2 of this proposal requires identifying information described in subsection 1 of this section to be retained by the division and removed from the records of the division as follows:

- (a) All tier one reports shall be placed on the registry for life and not be expunged;
- (b) All tier two reports - Placed on the registry for 5 years, unless the individual is found to have committed another act of child abuse or neglect in such 5 year period, in which case the individual shall be classified as a tier one report. Two tier reports shall be eligible for expungement at the expiration of such 5 year period; and,
- (c) All tier three reports - Placed on the registry for 2 years and automatically expunged at the end of 2 years; except that, a person shall be placed back on the registry for any subsequent acts of abuse or neglect such person is found to have committed.

These schedules should have no fiscal impact on DLS. DLS is not involved with the maintenance of records currently, and to the extent that legal questions arise about records retention, this work could be absorbed by current DLS staff.

Section 210.152.9 of this proposal adds the following changes:

Subsection (1) - Allows individuals placed on the child abuse and neglect registry to petition the Child Abuse and Neglect Review Board (CANRB) expungement of all identifying information from the registry based on such individual's classification under subsection 1 of this section. This language can reasonably be expected to substantially increase the number of cases that will be handled by the CANRB. If the CD submitted additional referrals to DLS to appear in these hearings, there may be a fiscal impact, but the fiscal impact is unknown at this time.

ASSUMPTION (continued)

Subsection (2) of this proposal provides that a petition for expungement under this subsection shall state good cause for removal, which shall include, but not be limited to:

- (a) Proof of rehabilitation;
- (b) Acceptance of personal responsibility for placement on the registry;
- (c) A bona fide need for removal from the registry; and,
- (d) At least two letters supporting the petition from responsible persons of good moral character.

Subsection (3) of this proposal provides that if the petitioner has satisfied the criteria in subsection (2), and the CANRB determines that the petitioner poses no significant risk to children or other vulnerable populations, the board shall grant a petition.

Subsection (4) of this proposal allows any individual aggrieved by the decision of the CANRB to seek de novo judicial review of such decision or refile such petition for expungement with the board within 2 years after the final denial of such petition.

DLS estimates that this section will have a substantial fiscal impact on DLS. Current law does not provide for a procedure for removing names from the central registry except for the limited procedure passed in SB 54 (2012), so there is no data to accurately estimate the number of requests to expunge that DLS can expect. The CD's data establishes that approximately 4,000 individuals are added to the registry every year. If one quarter of the individuals who are added to the registry every year request an expungement and 25% of that number request de novo judicial review, this will result in 250 new cases for DLS attorneys every year. De novo judicial review cases are full trials on the record. The rules of civil procedure, including the right to discovery, and the rules of evidence will apply. DLS estimates that litigation of a de novo review case will take approximately 40 hours of attorney time. This would result in 10,000 additional hours of work for DLS attorneys (250 x 40). One attorney works approximately 1,864 hours per year ([40 hours x 52 weeks] - 120 hours vacation - 96 hours state holidays), the extra work created by these de novo reviews could not be absorbed by current staff. This would require approximately five (5) new positions for DLS. These estimates are based on conservative estimations of current similar DLS work; however, determining the exact impact of these new cases will be difficult until this new appeals system is in place.

Section 210.153 of this proposal modifies provisions related to the CANRB to allow the board to hear petitions for expungement. This will create additional work for the CANRB board. DLS attorneys rarely appear in front of the CANRB. Any additional work created could likely be absorbed by existing staff.

ASSUMPTION (continued)

The DLS estimates a Federal match rate of 17%. The remaining costs will be split 73% GR and 10% Other State Funds.

FY 14 costs are estimated to be \$328,389; FY 15 costs are estimated at \$327,890; and FY 16 costs are estimated at \$377,265.

Officials from the **DSS - Children's Division (CD)** provide the following information:

Child Abuse and Neglect Review Board (CANRB)

In 2012, the Children's Division had 5 CANRB's

- Each Board meets one time a month;
- Each board can do 8 cases a day;
- With all 5 boards in operation, the board can do 40 cases a month and 480 cases a year. Thus each board can hear approximately 100 cases annually; and,
- In 2012 the 5 CANRB reviewed 414 cases.

Child Abuse and Neglect Hotline Unit (CANHU)

Currently the CANHU provides administrative support for the CANRB. For 5 CANRBs, the following staff is required:

- One full time Children's Service Specialist;
- One full time Children's Service Worker;
- One full time clerical staff;
- Two part time field staff;
- Requires CANHU Unit Manager to provide some oversight; and
- Requires county staff to compile and send records for each case that is reviewed.

Child Abuse and Neglect Central Registry

Initial implementation

- Classify all existent registrants according to Tier
- Set up tier classification for new substantiated

Tier 1 - On the registry forever; no action required except notification;

Tier 2 - Eligible for petition after 5 years, if no subsequent reports within. Subsequent reports change a tier 2 to a tier 1. No action required unless a petition is received. Set a date for Tier 2's to become eligible. Requires notification of eligible date either at the time of initial contact or when a person changes tier (if no subsequent reports are received);

ASSUMPTION (continued)

Tier 3

- Classify and remove immediately all tier 3s, 2 years old, without subsequent reports, from registry;
- Classify all tier 3s, less than 2 years old, without subsequent reports and set a date for expungement;
- All tier 3s stay on the registry if they get a subsequent report;
- Tier 3s may change tiers if they are court adjudicated (tier 1) or remain in foster care due to CA/N for 90 days or more (Tier 2) ;
- Send notification of expungement date (if no subsequent reports are received); and,
- Set up automatic expungement after two years for new cases (if no subsequent reports are received).

The Alleged Perpetrator Appeal Process

The Tier system would only apply to substantiated or court adjudicated findings that were not overturned on appeal. There are approximately 4,000 alleged perpetrators who would be eligible to petition the CANRB. CD assumes 1,000 of these would actually require review.

CANRB currently requires 1 Children's Services Worker, 1 Children's Services Specialist and 1 Office Assistant to support 5 CANRBs.

In CY 12, expenditures for the 5 CANRBs was approximately \$25,000. If these CANRB's were doubled, expenditures would increase \$25,000. Base upon historical spending, approximately \$5,000 is needed to support each CANRB. The addition of 10 CANRBs would result in the need for \$50,000 to support these review boards [1 board does 8 cases per month or 96 cases per year; if 1,000 new cases, then need 10 additional boards (1,000 new cases/96 cases per year = 10.4 new boards)].

The match rate for this proposal is assumed to be approximately 67% State/33% Federal.

Therefore, the DSS-CD estimates FY 14 costs of \$344,382 (\$232,320 GR; \$112,062 Federal); FY 15 costs of \$366,680 (\$247,362 GR; \$119,318 Federal); and FY 16 costs of \$371,102 (\$250,346 GR; \$120,757 Federal).

Officials from the **Office of Administration (OA) - Information Technology Services Division (ITSD) - DSS** state this proposal would require multiple changes to the Family and Children's Electronic System (FACES) in the Protocols (Intake) and expungement processes.

HWC:LR:OD

ASSUMPTION (continued)

<u>Function</u>	<u>Work Effort (hours)</u>
Analysis and Design	160 hours
Create/Update Specification Documents	70 hours
Database Modifications	40 hours
Expungement Batch	80 hours
Expungement Files	80 hours
In-take (Process & screens modifications)	160 hours
IA (modifications)	240 hours
Letters (AFP modifications)	80 hours
Conversion	460 hours
Unit Test	40 hours
System/Regression Test	80 hours
<u>User Acceptance Testing</u>	<u>80 hours</u>
Total:	<u>1,570 hours</u>

Contract Staff would be required for this effort at \$90.00/hr

Total Cost: 1570 hours X \$90.00/hr = **\$ 141,300**

Match rate for FACES is 50% GR and 50% Federal.

Cost from General Revenue Funds = \$70,650

Cost from Federal Funds = \$70,650

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect that additional funding would be required to meet these costs. However, it is also recognized that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Joint Committee on Administrative Rules (JCAR)** state the legislation is not anticipated to cause a fiscal impact to JCAR beyond its current appropriation.

Officials from the **Office of State Courts Administrator**, the **Department of Mental Health** and the **Department of Health and Senior Services** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE FUND			
<u>Costs - DSS-DLS</u>			
Personal service	(\$131,749)	(\$159,743)	(\$161,341)
Fringe benefits	(\$66,856)	(\$81,062)	(\$81,872)
Equipment and expense	<u>(\$41,119)</u>	<u>(\$31,405)</u>	<u>(\$32,190)</u>
<u>Total Costs - DSS-DLS</u>	<u>(\$239,724)</u>	<u>(\$272,210)</u>	<u>(\$275,403)</u>
FTE Change - DSS	4.38 FTE	4.38 FTE	4.38 FTE
<u>Costs - DSS-CD</u>			
Personal service	(\$107,407)	(\$130,230)	(\$131,532)
Fringe benefits	(\$54,504)	(\$66,085)	(\$66,746)
Equipment and expense	(\$36,679)	(\$16,642)	(\$16,975)
CANRBs	<u>(\$33,730)</u>	<u>(\$34,405)</u>	<u>(\$35,093)</u>
<u>Total Costs - DSS-CD</u>	<u>(\$232,320)</u>	<u>(\$247,362)</u>	<u>(\$250,346)</u>
FTE Change - DSS	4.05 FTE	4.05 FTE	4.05 FTE
<u>Costs - OA-ITSD-DSS</u>			
System programing expenditures	<u>(\$70,650)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$542,694)</u>	<u>(\$519,572)</u>	<u>(\$525,749)</u>
Estimated Net FTE Change on the General Revenue Fund	8.43 FTE	8.43 FTE	8.43 FTE
OTHER STATE FUNDS			
<u>Costs - DSS-DLS</u>			
Personal service	(\$18,048)	(\$21,883)	(\$22,101)
Fringe benefits	(\$9,158)	(\$11,104)	(\$11,215)
Equipment and expense	<u>(\$5,633)</u>	<u>(\$4,302)</u>	<u>(\$4,410)</u>
<u>Total Costs - DSS-DLS</u>	<u>(\$32,839)</u>	<u>(\$37,289)</u>	<u>(\$37,726)</u>
FTE Change - DSS	0.6 FTE	0.6 FTE	0.6 FTE
ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>(\$32,839)</u>	<u>(\$37,289)</u>	<u>(\$37,727)</u>
Estimated Net FTE Change on Other State Funds	0.6 FTE	0.6 FTE	0.6 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
FEDERAL FUNDS			
<u>Income - DSS-DLS</u>			
Program reimbursement	\$55,826	\$63,391	\$64,135
<u>Income - DSS-CD</u>			
Program reimbursement	\$112,062	\$119,318	\$120,757
<u>Income - OA-ITSD-DSS</u>			
System programing reimbursement	\$70,650	\$0	\$0
<u>Costs - DSS-DLS</u>			
Personal service	(\$30,681)	(\$37,201)	(\$37,573)
Fringe benefits	(\$15,569)	(\$18,877)	(\$19,066)
Equipment and expense	<u>(\$9,576)</u>	<u>(\$7,313)</u>	<u>(\$7,496)</u>
<u>Total Costs - DSS-DLS</u>	<u>(\$55,826)</u>	<u>(\$63,391)</u>	<u>(\$64,135)</u>
FTE Change - DSS	1.02 FTE	1.02 FTE	1.02 FTE
<u>Costs - DSS-CD</u>			
Personal service	(\$51,809)	(\$62,818)	(\$63,446)
Fringe benefits	(\$26,290)	(\$31,877)	(\$32,196)
Equipment and expense	(\$17,692)	(\$8,028)	(\$8,188)
CANRBs	<u>(\$16,270)</u>	<u>(\$16,595)</u>	<u>(\$16,927)</u>
<u>Total Costs - DSS-CD</u>	<u>(\$112,061)</u>	<u>(\$119,318)</u>	<u>(\$120,757)</u>
FTE Change - DSS	1.95 FTE	1.95 FTE	1.95 FTE
<u>Costs - OA-ITSD-DSS</u>			
System programming expenditures	<u>(\$70,650)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON FEDERAL FUNDS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change on Federal Funds	2.97 FTE	2.97 FTE	2.97 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal requires the Children's Division within the Department of Social Services by January 1, 2014, to classify all identifying information, including telephone reports, relating to reports of abuse or neglect received by the division in one of the following tiers based on the level of risk of future injury to the child: (1) Tier one: severe risk of future harm to the child; (2) Tier two: moderate risk of future harm to the child; (3) Tier three: mild risk of future harm to the child.

The proposal specifies the criteria for each tier and authorizes the department to promulgate rules to establish the standards for each classification. All tier one reports must be placed on the registry for life and are not subject to expungement. All tier two reports must be placed on the registry for five years, unless the individual is found to have committed another act of child abuse or neglect in the five-year period, in which case the individual must be classified as a tier one report. Any tier two report is eligible for expungement at the expiration of the five-year period. Tier three reports must be placed on the registry for two years and must automatically be expunged at the end of the two-year period.

This proposal requires all persons placed on the Missouri Child Abuse/Neglect Central Registry System to remain on the registry for the duration of time required under these provisions. The division must use structured decision-making protocols for classification purposes of all child abuse and neglect reports consistent with these classification tiers. The division's information system must contain the classification of risk and injury and must be updated to reflect any changes in classification.

Any individual placed on the registry may petition the department's Child Abuse and Neglect Review Board for expungement of all identifying information from the registry based on the individual's classification. The proposal specifies the information that must be in any petition for expungement. If the petition satisfies the requirements, and the board determines the petitioner poses no significant risk to children or other vulnerable populations, the board must grant the petition. Any individual aggrieved by the board's decision may seek de novo review of the decision or refile the petition for expungement with the board within two years after the final denial of the petition. The department must maintain a sealed record of the underlying report and investigation of child abuse or neglect for any record expunged under these provisions. The sealed record is only available to child protection investigators or law enforcement officials who need access to the record as part of an open investigation related to an allegation of child abuse or neglect.

This legislation is not federally mandated and would not duplicate any other program.

SOURCES OF INFORMATION

Office of Administration -
 Information Technology Services Division/Department of Social Services
Office of State Courts Administrator
Department of Mental Health
Department of Health and Senior Services
Department of Social Services -
 Children's Division
 Division of Legal Services
Joint Committee on Administrative Rules
Office of Secretary of State



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Acting Director
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